

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ONE BEACON INSURANCE )  
COMPANY, )  
Plaintiff(s), )  
v. )  
HAAS INDUSTRIES, INC, )  
Defendant(s). )

No. C07-3540 BZ

**ORDER SCHEDULING  
COURT TRIAL AND  
PRETRIAL MATTERS**

Following the Case Management Conference, **IT IS HEREBY ORDERED** that the Case Management Statement is adopted, except as expressly modified by this Order. It is further **ORDERED** that:

1. DATES

Trial Date: **Tuesday, July 1, 2008**, 2 days

Pretrial Conference: **Tuesday, 6/24/2008**, 4:00 p.m.

Last Day to Hear Motion for Summary Judgment: **Wednesday, 3/19/2008**. Should both parties wish to move for summary judgment, the parties shall file as discussed in the case management conference. The parties shall meet and confer to determine which party will file the initial moving papers.

1 The motions shall be briefed as follows: initial motion shall  
2 be filed by no later than **Friday, January 18, 2008**; the  
3 opposition and cross motion shall be filed by **Friday, February**  
4 **8, 2007**; the reply and cross opposition shall be filed by  
5 **Friday, February 22, 2007**; and the cross reply shall be filed  
6 by **Monday, March 3, 2007**.

7 Last Day for Expert Discovery: **Friday, 4/11/2008**

8 Last Day for Expert Disclosure: **Friday, 4/4/2008**

9 Close of Non-expert Discovery: **Friday, 3/28/2008**

10 Should defendant determine it is necessary to file a third  
11 party complaint pursuant to Federal Rule of Civil Procedure  
12 14(a), the complaint shall be filed and served, along with a  
13 copy of this order by **Monday, December 3, 2007**.

14 2. DISCLOSURE AND DISCOVERY

15 The parties are reminded that a failure to voluntarily  
16 disclose information pursuant to Federal Rule of Civil  
17 Procedure 26(a) or to supplement disclosures or discovery  
18 responses pursuant to Rule 26(e) may result in exclusionary  
19 sanctions. Thirty days prior to the close of non-expert  
20 discovery, lead counsel for each party shall serve and file a  
21 certification that all supplementation has been completed.

22 In the event a discovery dispute arises, **lead counsel** for  
23 each party shall meet in person or, if counsel are outside the  
24 Bay Area, by telephone and make a good faith effort to resolve  
25 their dispute. Exchanging letters or telephone messages about  
26 the dispute is insufficient. The Court does not read  
27 subsequent positioning letters; parties shall instead make a  
28 contemporaneous record of their meeting using a tape recorder

1 or a court reporter.

2 In the event they cannot resolve their dispute, the  
3 parties must participate in a telephone conference with the  
4 Court **before** filing any discovery motions or other papers.  
5 The party seeking discovery shall request a conference in a  
6 letter filed electronically not exceeding two pages (with no  
7 attachments) which briefly explains the nature of the action  
8 and the issues in dispute. Other parties shall reply in  
9 similar fashion within two days of receiving the letter  
10 requesting the conference. The Court will contact the parties  
11 to schedule the conference.

12 3. MOTIONS

13 Consult Civil Local Rules 7-1 through 7-5 and this  
14 Court's standing orders regarding motion practice. Motions  
15 for **summary judgment** shall be accompanied by a statement of  
16 the material facts not in dispute supported by citations to  
17 admissible evidence. The parties shall file a joint statement  
18 of undisputed facts where possible. If the parties are unable  
19 to reach complete agreement after meeting and conferring, they  
20 shall file a joint statement of the undisputed facts about  
21 which they do agree. Any party may then file a separate  
22 statement of the additional facts that the party contends are  
23 undisputed. A party who without substantial justification  
24 contends that a fact is in dispute is subject to sanctions. A  
25 Chambers copy of all briefs shall be submitted on a diskette  
26 formatted in WordPerfect 6.1, 8, 9, 10 or 13 (Windows), or may  
27 be e-mailed to the following address: bzpo@cand.uscourts.gov.

28 4. SETTLEMENT

1 This case is referred to a Magistrate Judge to conduct a  
2 settlement conference in April or May 2008 in the event the  
3 case is not resolved by summary judgement. Counsel will be  
4 contacted by that judge's chambers with a date and time for  
5 the conference.

6 5. PRETRIAL CONFERENCE

7 Not less than thirty days prior to the date of the  
8 pretrial conference, the parties shall meet and take all steps  
9 necessary to fulfill the requirements of this Order.

10 Not less than twenty days prior to the pretrial  
11 conference, the parties shall: (1) serve and file a joint  
12 pretrial statement, containing the information listed in  
13 **Attachment 1**, and a proposed pretrial order; (2) serve and  
14 file trial briefs, Daubert motions, proposed findings of fact  
15 and conclusions of law, and statements designating excerpts  
16 from discovery that will be offered at trial (specifying the  
17 witness and page and line references); (3) exchange exhibits,  
18 agree on and number a joint set of exhibits and number  
19 separately those exhibits to which the parties cannot agree;  
20 (4) deliver all marked trial exhibits directly to the  
21 courtroom clerk, Ms. Scott; (5) deliver one extra set of all  
22 marked exhibits directly to Chambers; and (6) submit all  
23 exhibits in three-ring binders. Each exhibit shall be marked  
24 with an exhibit label as contained in **Attachment 2**. The  
25 exhibits shall also be separated with correctly marked side  
26 tabs so that they are easy to find.

27 No party shall be permitted to call any witness or offer  
28 any exhibit in its case in chief that is not disclosed at

1 pretrial, without leave of Court and for good cause.

2       Lead trial counsel for each party shall meet and confer  
3 in an effort to resolve all disputes regarding anticipated  
4 testimony, witnesses and exhibits. Not less than ten days  
5 prior to the pretrial conference, the parties shall serve and  
6 file any objections to witnesses or exhibits or to the  
7 qualifications of an expert witness, and any oppositions to  
8 Daubert motions. There shall be no replies.

9       All motions, proposed findings of fact and conclusions of  
10 law and trial briefs shall be e-mailed to the following  
11 address: **bzpo@cand.uscourts.gov**

12       At the time of filing the original with the Clerk's  
13 Office, two copies of all documents (but only one copy of the  
14 exhibits) shall be delivered directly to Chambers (Room 15-  
15 6688). Chambers' copies of all pretrial documents shall be  
16 three-hole punched at the side, suitable for insertion into  
17 standard, three-ring binders.

18 Dated: November 1, 2007

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21       Bernard Zimmerman  
22       United States Magistrate Judge  
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**ATTACHMENT 1**

The parties shall file a joint pretrial conference statement containing the following information:

**(1) The Action.**

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of each party's position on the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of those damages.

**(2) The Factual Basis of the Action.**

(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.

(C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

1           (3) **Trial Preparation.**

2           A brief description of the efforts the parties have  
3           made to resolve disputes over anticipated testimony,  
          exhibits and witnesses.

4                   (A) Witnesses to be Called. In  
5                   lieu of FRCP 26(a)(3)(A), a  
6                   list of all witnesses  
7                   likely to be called at  
8                   trial, other than solely  
9                   for impeachment or  
              rebuttal, together with a  
              brief statement following  
              each name describing the  
              substance of the testimony  
              to be given.

10                   (B) Estimate of Trial Time. An  
11                   estimate of the number of  
12                   court days needed for the  
13                   presentation of each  
14                   party's case, indicating  
15                   possible reductions in time  
16                   through proposed  
              stipulations, agreed  
              statements of facts, or  
              expedited means of  
              presenting testimony and  
              exhibits.

17                   (C) Use of Discovery Responses.  
18                   In lieu of FRCP  
19                   26(a)(3)(B), cite possible  
20                   presentation at trial of  
21                   evidence, other than solely  
22                   for impeachment or  
23                   rebuttal, through use of  
24                   excerpts from depositions,  
              from interrogatory answers,  
              or from responses to  
              requests for admission.  
              Counsel shall state any  
              objections to use of these  
              materials and that counsel  
              has conferred respecting  
              such objections.

25                   (D) Further Discovery or  
26                   Motions. A statement of all  
27                   remaining motions,  
              including Daubert motions.

28           (4) **Trial Alternatives and Options.**

1 (A) Settlement Discussion. A  
2 statement summarizing the  
3 status of settlement  
4 negotiations and indicating  
5 whether further  
6 negotiations are likely to  
7 be productive.

8 (B) Amendments, Dismissals. A  
9 statement of requested or  
10 proposed amendments to  
11 pleadings or dismissals of  
12 parties, claims or  
13 defenses.

14 (C) Bifurcation, Separate Trial  
15 of Issues. A statement of  
16 whether bifurcation or a  
17 separate trial of specific  
18 issues is feasible and  
19 desired.

20 (5) **Miscellaneous.**

21 Any other subjects relevant to the trial of the  
22 action, or material to its just, speedy and inexpensive  
23 determination.  
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**ATTACHMENT 2**

**USDC**  
Case No. CV06-05025 BZ  
**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**  
Case No. CV06-05025 BZ  
**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**  
Case No. CV06-05025 BZ  
**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

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**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

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Case No. CV06-05025 BZ  
**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**  
Case No. CV06-05025 BZ  
**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**  
Case No. CV06-05025 BZ  
**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

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Case No. CV06-05025 BZ  
**DEFT** Exhibit No. \_\_\_\_\_

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